IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7329 OF 2004

Smt.Shanta Anil Sutar ...Petitioner
Vs.
The Project Officer
Integrated Tribal Development & Ors. ...Respondents

Mr.S.G.Kudle for Petitioner
Mr. C.R. Sonawane, A.G.P. for Respondent Nos.1 to 3
Mr. Nitin Jamdar for Respondent No.4.

CORAM: H.L.GOKHALE &
SMT.R.S.DALVI,JJ.
DATED: 27TH JUNE, 2005

P.C.

1. Heard Mr.Kudle in support of this Petition. Mr.Sonawane, A.G.P. appears for Respondent Nos.1,2 and 3 and Mr.Jamdar appears for Respondent No.4.

2. **Rule.** The parties have filed their affidavits. Considering the facts of the case we are hearing and disposing of this Petition at this stage itself.

3. The Petitioner herein is a Teacher with necessary qualifications of B.A. B.Ed. She was appointed in a School run by the Respondent No.4, Institution at Vairag, Tal: Barshi in Solapur District in the academic year 1992-93. She was terminated on 31st March, 1997. She challenged that order of termination by filing an appeal to the School Tribunal, Pune Region at Solapur. The appeal came to

be allowed by an order passed on 30th January, 2003 and was directed to be reinstated though with 2/3rd of the backwages, since there was a delay in approaching the Tribunal.

4. This order passed by the Tribunal is challenged by the School Management in another Writ Petition No.2231 of 2003. The Petition has been admitted but this Court has declined to grant stay on the order of reinstatement. The order in respect of backwages has been stayed. The Petitioner has filed a Contempt Petition as well. In the meanwhile the Respondent No.4 has passed an order asking the Petitioner to join at the School at Boroti, in Tal:Akkalkot, which is situated at some 96 Kms. from the earlier school, even as per the Government affidavit. It is this Posting which is under challenge in this Petition and a prayer is made that the Respondent be directed to see that the Petitioner is allowed to join in the school at Vairag.

5. Mr. Kudle learned Counsel for the Petitioner points out that the School at Vairag is a school meant for Tribal Students. The Petitioner belongs to an O.B.C. Community. The Tribal schools are under the Respondent No.1, Project Officer, Integrated Tribal Development Project. There is a Government Policy not to transfer the Teachers under this project to some other schools. That circular dated 26th June, 1992 is

annexed to the Petition. Mr. Jamdar has disputed this position. That apart Mr. Kudle has pointed out that where as the Petitioner has been sent to a school at some 96 Kms. one Mr. Kumbhar is being brought to the School. A reply has been filed by Respondent No.4 but it is not placed on record as to what was the exact list of teachers in March, 1997 and as to why the Petitioner was being sent out. Mr. Jamdar learned Counsel for Respondent No.4 submitted that Respondent No.4 is ready to accommodate the Petitioner in another school at a distance of 20 Kms. We are not prepared to accept this submission. The Respondent No.4 may send some other junior Teacher or Mr. Kumbhar who appears to be brought in now. The order passed by this Court declining stay on reinstatement has got to be implemented. The Management cannot show such excuses and try to avoid implementation of the order. We therefore, allow this Petition in terms of prayer clause (b) and direct the Respondents to see to it that the Petitioner is reinstated in the school at Vairag, Taluka: Barsi, Dist: Solapur, She should be allowed to join with effect from 1st July, 2005.

. Rule is made absolute accordingly.

(H.L.GOKHALE,J.)

(SMT.R.S.DALVI,J.)